## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

SAMUEL WHITSON,	
Plaintiff, )	
v. )	No. 3:05-CV-274 (Phillips)
KNOX COUNTY BOARD OF EDUCATION, et al.,	(i iiiiips)
Defendants. )	

## ORDER

This matter is before the court on Knox County's motion to amend its answer to aver that plaintiffs' complaint is "frivolous, unreasonable and/or without foundation," and to make a demand for attorney fees should defendants prevail at trial [Doc. 241]. Plaintiffs have opposed the motion [Doc. 243].

Under Rule 15, Federal Rules of Civil Procedure, leave to amend a pleading should "be freely given when justice so requires." But leave to amend a pleading should be denied where there is undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, or the amendment is futile. *Morse v. McWhorter*, 290 F.3d 795, 800 (6<sup>th</sup> Cir. 2002).

Plaintiffs initiated this action on June 1, 2005. Knox County filed its answer on August 23, 2005. Knox County's motion comes at a very late stage of this litigation,

after the parties have concluded discovery and filed numerous dispositive motions. Knox County has not provided the court with any reason for the delay in moving to amend its answer. Knox County had both the knowledge and opportunity to file this motion long ago. Accordingly, Knox County's motion to amend answer [Doc. 241] is **DENIED.** 

**ENTER:** 

s/ Thomas W. Phillips
United States District Judge